



SBA Procedural Notice

TO: All SBA Employees

CONTROL NO.: 5000-1063

SUBJECT: SOP 50 10(5) --
Revised Environmental Definition &
Reliance Letter

EFFECTIVE: 7/30/2008

SOP 50 10, which governs 7(a) and 504 loan processing as well as the requirements to become and remain a 7(a) lender (Lender) or a Certified Development Company (CDC), was completely rewritten and, on March 20, 2008, SOP 50 10(5) was made available with a delayed effective date. On June 6, 2008, SBA issued technical corrections to SOP 50 10(5) (see Notice 5000-1057) and extended the effective date to August 1, 2008.

Since its release on March 20, 2008, SBA has continued to receive feedback on the revised SOP. As a result of the feedback received from the lending community and from environmental professionals, SBA has modified the definition of "Records Search with Risk Assessment" (found in Appendix 2) and the Reliance Letter (found in Appendix 3). The changes are discussed more fully below.

Revised Definition of "Records Search with Risk Assessment"

The definition of "Records Search with Risk Assessment" (Appendix 2, page 325) was modified to clarify that any number of historical use records may be utilized based upon the judgment of the environmental professional conducting the search and to correct the hyperlink found in footnote 5, which appears in this definition. The revised definition of "Records Search with Risk Assessment" now reads as follows:

"Records Search with Risk Assessment" means and includes (1) a search of the government databases identified in 40 CFR § 312.26⁵ for an AAI compliant Phase I as well as a search of historical use records (for example, aerial photography, city directories, reverse directories and/or fire insurance maps) pertaining to the Property and Adjoining Properties; and (2) a risk assessment by an Environmental Professional based on the results of the records search as to whether the Property is either "high risk" or "low risk" for Contamination.

Footnote 5 is revised to read as follows:

⁵ For a detailed list of databases to be searched, lenders may go to http://edocket.access.gpo.gov/cfr_2007/julqtr/pdf/40cfr312.26.pdf.

Revised Reliance Letter

SBA revised the Reliance Letter found in Appendix 3 (page 327) to: (1) clarify that the maximum amount of liability to an environmental professional or their firm will not exceed the \$1,000,000 in errors and omissions liability insurance that they are required to maintain; (2)

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clarify that the Lender or SBA may provide the borrower with a copy of the environmental report *for informational purposes only*; (3) state that an environmental professional may be employed by or affiliated with the lender but must be independent of and not a representative, employee or affiliate of the borrower or operating company; (4) incorporate provisions to recognize that environmental professionals may be working with environmental firms; and (5) add a signature block for an environmental firm to sign if applicable.

Questions regarding this notice should be directed to eric.adams@sba.gov or by telephone at (415) 744-8440.

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Attachment